III. THE COMMISSION SHOULD REJECT INCUMBENT LEC REQUESTS FOR ANTI-COMPETITIVE ACCESS RULES.

A. Access Charges Must Not be Applied to Unbundled Network Elements.

[Notice, Section II-B]

The Commission definitively concluded in the Local Competition Order that incumbent LECs should not be allowed to impose interstate access charges on unbundled network elements. 21/ This conclusion is not only compelled by the clear language of the 1996 Act, 22/ it is critical to the development of local competition. Unbundled network elements must be available to new entrants at rates based on their forward-looking cost -- the same basis on which those facilities are available to ILECs -- in order to facilitate competition. The addition of access charges to forward-looking cost-based rates for unbundled elements would raise those rate levels far above cost and make it impossible for new entrants to compete on the same basis as the ILECs themselves. Moreover, a new entrant purchasing unbundled elements is entitled to use those facilities to provide any local

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21/ Local Competition Order, ¶¶ 362-64. The Order created only a limited exception to this rule -- the interim application of certain access charges to of unbundled local switching until the earlier of June 30, 1997, the issuance of final orders in this and the universal service proceedings, or RBOC interLATA authorization under Section 271. Id., ¶¶ 716-32. The Commission stated, "We can conceive of no circumstances under which the requirement that certain entrants pay the CCLC or a portion of the TIC on calls carried over unbundled network elements would be extended further." Id., ¶ 725.

22/ 47 U.S.C. §§ 251(c)(3), 252(d)(1) (rates for unbundled elements must be just, reasonable, nondiscriminatory, and cost-based).

telecommunications service, including access service. But a requirement to pay the ILEC access charges on top of cost-based network element rates -- essentially an uneconomic access "tax" -- would make it economically impossible for new entrants to offer access services as part of their full-service local telecommunications offerings.

Put another way, local competition means competition to provide local services to end users over a local loop, *and* to provide vertical features to that end user, *and* to provide origination for that end user's outbound interexchange traffic, *and* to provide terminating service to other carriers who need to deliver traffic to the end user. Once a carrier has purchased unbundled network elements, it has covered the ILEC's cost. ILECs must not be allowed to impose an additional "access surcharge" on their local rivals, any more than they may prohibit their rivals from receiving any one of these various revenue streams from end users or carriers.

Accordingly, the Commission should soundly reject the ILECs' brazen calls for applying access charges to unbundled element rates in certain circumstances. For example, SWB's proposal to add a SLC "surcharge" to the rates for unbundled loops 23/ ignores the fact that the Commission's rules on unbundled element pricing already provide for recovery of the full cost of the unbundled loop. BellSouth and Pacific Telesis are similarly wrong when they argue that access

23/ Southwestern Bell Comments at 13.

charges should apply when entrants purchase unbundled elements and package them together to offer local service. 24/ These proposals blatantly violate the statutory cost-based pricing standard. Moreover, they would gut the essence of the Commission's policies in the Local Competition Order.

Indeed, if these ILEC arguments were accepted, then WorldCom would join the ranks of those who call for an immediate prescription of cost-based access rates. The entire foundation of a market-based approach to access reform rests on the ability of new entrants, whether using their own facilities, unbundled ILEC network elements, or a combination, to offer the same full array of local telephone services, including access, as the ILECs. If we cannot offer access without paying a surcharge, then the ILEC access bottleneck remains substantially unbroken, carriers will not be able to avoid high ILEC access charges by becoming full-service providers using unbundled network elements, and prescription becomes the only path to lower access rates for carriers, and thus lower long distance rates for consumers.

24/ BellSouth Comments at 13; Pacific Telesis Comments at 11-12.

B. Special Access Should Not Be Deregulated Prematurely.

[Notice, Sections III.D.2 and IV.B.1]

Several of the ILECs contend that special access should, in effect, be deregulated now, together with high-capacity dedicated transport. 25/ These requests are over-reaching, for several reasons. First, competition for special access and transport services is much less advanced to date than the ILECs claim. WorldCom, which is one of the two largest competitive access providers ("CAPs") in the country, has operational collocation in fewer than 175 of the nation's tens of thousands of central offices. For example, while BellSouth goes to great lengths to assert how much competition has arrived in its region, 26/ WorldCom has operational collocation in only 4 central offices in that region. Collocators are active in only 42 of Bell Atlantic's thousands of central offices. 27/ And without expanded interconnection, opportunities for widespread competition to provide special access and transport is seriously limited.

Second, it is WorldCom's understanding that, in more than half of the states, the ILECs have not yet satisfied even the existing "quid pro quo" rule regarding pricing flexibility for special access adopted almost five years ago. This

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25/ See, e.g., USTA Comments at 42-46 and Attachment 8; Bell South Comments at 22-24.

26/ BellSouth Comments at 22-24 and Attachment 1.

27/ Bell Atlantic Telephone Cos., Tariff F.C.C. No. 1, 9th Revised Pages 962-962.1 (effective Jan. 20, 1997).

rule provides that an ILEC may implement geographic deaveraging of special access in a state once at least one competitive carrier is using expanded interconnection (i.e., collocation under the pre-existing FCC regime) in at least one ILEC central office in that state. 28/ The Commission should, at the very least, insist that its earlier quid pro quo is satisfied before granting additional pricing flexibility. A similar set of quid pro quos exist for switched transport, which have been met in even fewer states. For example, BellSouth has not met the existing threshold for switched transport in a single state. Under these conditions, it would be far too soon to grant additional forms of pricing flexibility or streamlined regulation for switched transport.

Several of the ILECs make generalized allegations about the degree of competition they face now for special access and high capacity dedicated transport service. 29/ This may well be the case in certain limited specific areas, but the Commission should not make general regulatory changes based on such meager, anecdotal showings. Rather, the Commission should insist that ILECs make specific, geographically targeted showings based on the Phase I and Phase II pricing flexibility policies developed here.

28/ Cf. Expanded Interconnection with Local Telephone Company Facilities, 7 FCC Rcd 7369, 7454-7455¶¶ 179-80 (1992), recon., 8 FCC Rcd 127 (1992), second recon., 8 FCC Rcd 7341 (1993), reversed on other grounds and remanded sub nom. Bell Atlantic Tel. Cos. v. FCC, 24 F.3d 1441 (1994).

29/ See, e.g., Ameritech Comments at 33-35 and Attachment D.

In that regard, ILECs should not be allowed to remove any service from price caps, nor should any other form of regulatory streamlining be granted, until the competitive checklist has been satisfied. These forms of pricing flexibility could be a powerful inducement for ILECs to cooperate in satisfying the preconditions for local competition. It would be extremely unfortunate and a missed chance to promote competition if the Commission were to give away this "carrot" without a satisfactory quid pro quo. More important, unless Sections 251 and 252 are satisfied, and interconnection of competitive facilities takes place on a wide scale, access customers will not have the competitive choice that would justify relaxation of price regulation.

Finally, and in any event, what the ILECs are seeking in this area goes far beyond the forms of pricing flexibility proposed for Phase I, and even somewhat beyond that proposed for Phase II. The Commission should not grant Phase II freedom until the preconditions are satisfied both for Phase I (i.e., the competitive checklist) and for Phase II (i.e., some quantitative showing regarding the emergence of actual competition).

C. The Commission Should Not Revisit the Transport Rate Structure and Pricing Rules – But If It Does, It Must Treat Common and Dedicated Transport Consistently.

[Notice, Sections III.D. and III.E.]

WorldCom, in our initial comments, maintained that -- with the exception of the issues remanded by the Court of Appeals 30/ -- the Commission should focus on the larger issues in this proceeding and should not get bogged down in revisiting the rate structure and pricing issues decided in the Transport proceeding. At this point, however, we must respond to the ILECs' incorrect and self-serving contentions that the unitary rate structure option for tandem-switched transport should be eliminated, 31/ and that certain of the rate level decisions in the Transport orders result in under-pricing of tandem-switched transport, with residual dollars recovered through the TIC.

As an initial matter, we note that WorldCom is both a consumer of transport services and a competitive provider of transport services. We therefore have no interest in either unreasonably low or unreasonably high ILEC transport rates. What we seek is a set of reasonably cost-based transport rate structures and rate levels that avoid interfering with either local or long distance competition.

30/ Competitive Telecommunications Association v. FCC, 87 F.3d 522 (D.C. Cir. 1996) ("CompTel").

31/ The so-called "unitary" rate structure option is the first of the two pricing alternatives for tandem-switched transport described in ¶ 87 of the Notice. The second alternative described in that paragraph is sometimes described as the "partitioned" rate structure option.

It is somewhat surprising that the ILECs, with their supposed affection for price caps and deregulation, would make the arguments that they do for a highly regulatory overhaul of the rate structure and pricing of tandem-switched transport. Done correctly, the ILECs' approach would require extensive cost studies and a complicated restructuring of both common and dedicated transport. Although WorldCom believes that, with the important exception of tandem switching, 32/ such cost studies are unnecessary, if the ILECs are serious about such an enterprise, then WorldCom submits some guiding principles.

1. Dedicated and common transport, which use identical network facilities, would have to be treated consistently. The ILECs' positions regarding transport essentially amount to an argument that the Commission revisit the rate structure and pricing decisions for tandem-switched transport alone. But it is abundantly clear that today the same network facilities are used to provide dedicated interoffice transport as well as tandem-switched transport. The basic difference between the interoffice transmission facilities used for dedicated and common transport is that, for the former, electronic circuit equipment permanently reserves a set of time slots on a large, multiplexed transmission pipe for a given IXC's use, while for the latter, the identical time slots on the same transmission pipe are set aside on an ad hoc basis when a particular call is set up. But both

32/ See WorldCom Comments at 53-56.

types of interoffice transport typically are routed in the same way, over the same transmission facilities, transiting a number of intermediate offices and/or hubs on the way between the serving wire center ("SWC") and the end office.

Accordingly, WorldCom submits that it would be unreasonably discriminatory for the Commission to make detailed changes to the rate structure or pricing of tandem-switched transport and not make parallel changes with respect to dedicated interoffice transport. If the ILECs want to re-open settled decisions regarding tandem-switched transport, then it simply defies any notion of fairness or reasoned decision-making not to engage in the same regulatory process with respect to dedicated transport.

For example, the ILECs call for a detailed accounting of the actual number of multiplexers used in the context of tandem-switched transport, and similar minutiae. 33/ WorldCom is puzzled by this call for detailed, piece-part cost accounting by the champions of price cap regulation and market-based deregulation (which is supposed to move away from such detailed cost studies), and believes that such an exercise would be counter-productive. Nonetheless, if the ILECs want to start counting the multiplexers, hubs, and other network facilities used for tandem-switched transport, then they must conduct a similar count of the multiplexers,

33/ See, e.g., BellSouth Comments at 74.

hubs, and so on used for dedicated transport. 34/ The same direct costing methodologies must be used for all types of transport. 35/

2. Decisions would have to be based on a current, forward-looking view of the design of the interoffice network. WorldCom is insistent that the Commission must stop approaching these issues based on the outdated triangular or pyramidal model of the interoffice network represented by Figure 1 in the Notice. 36/ As long ago as 1987, Peter W. Huber -- no enemy of the ILECs -- argued that the ILEC transmission network (and the national telecommunications network of networks more generally) was increasingly "geodesic" rather than pyramidal in design. 37/ This trend has accelerated over the past decade. The ring, rather than the pyramid, has become the basic unit of transmission network design. All of the major ILECs have, over the past decade, replaced virtually all of their copper

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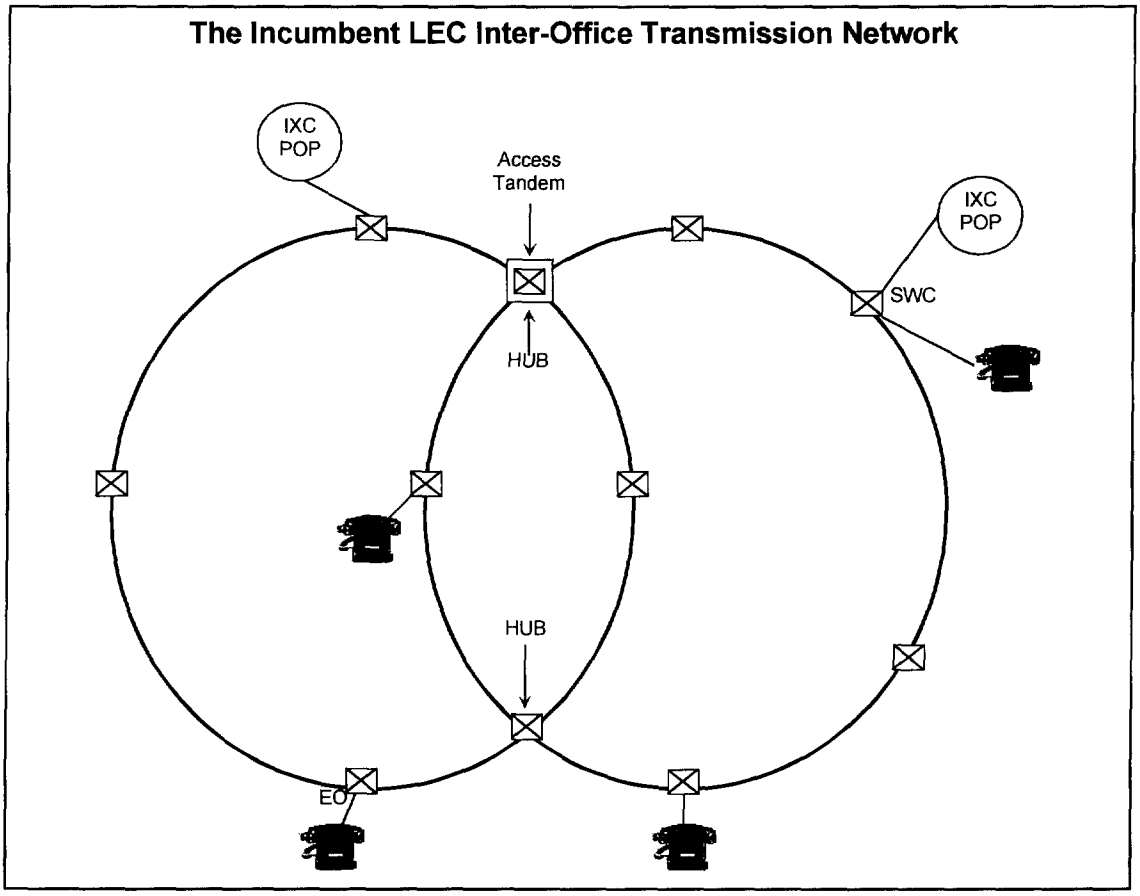
34/ And to be fully consistent, this count should examine each transmission path in the actual ILEC interoffice network, which approaches an efficient, cost-based network much more closely than the non-existent network model that hypothesizes "direct-trunked" transport provided over a straight-line transmission facility directly linking the SWC and the end office.

35/ If, given the possible efficiencies and probable cost savings of ILEC management of circuit facility assignments, a lower rate, reflecting these efficiencies, is made available to access customers that choose to allow the ILEC to control circuit facility assignments, then such an option should be available to users of common transport as well as dedicated transport.

36/ Notice, Figure 1 (following ¶ 24).

37/ U.S. Department of Justice, Antitrust Division, The Geodesic Network: 1987 Report on Competition in the Telephone Industry 1.2 (prepared by Peter W. Huber, consultant) (Jan. 1987).

interoffice transmission facilities with very high capacity fiber optics, and synchronous optical network ("SONET") rings are the technology of choice on a forward-looking basis. Below, WorldCom submits an alternative diagram that more accurately depicts the current and forward-looking architecture of the ILECs' interoffice transmission networks, as a conceptual model that would more accurately guide Commission decision-making.



There are several practical implications of this geodesic network architecture. First, distance sensitivity plays at best a minor role in the cost of interoffice transmission. Given that all interoffice transmission is routed around

large fiber rings, the actual distance between the originating and terminating points of any given transmission point is growing less and less relevant to the actual costs.

Second, in the geodesic interoffice transmission network, actual transmission paths -- both for dedicated interoffice circuits and for common transport -- do not follow straight-line paths between central offices. So-called "direct-trunked" transport is a misnomer: dedicated transport (as well as special access) is never "direct trunked" on a straight line between the SWC and the end office. The distance-sensitive component of dedicated transport is rated on the basis of mileage "as the crow flies" between the SWC and the end office, not because transmission facilities actually follow such a path, but because the access customer has no control over the specific geographic pattern the traffic takes en route between the SWC and the end office, and does not care. 38/ The customer only cares that the traffic reaches its destination. Since the ILEC has exclusive control over the actual routing of the traffic, a rate based on the straight-line distance gives it incentives to route the traffic in the most efficient manner possible. The same is true for tandem-switched transport.

38/ In addition, it is difficult or impossible for ILECs to rate dedicated transport based on the actual transmission path, which may be hard to trace and which may change frequently, given the dynamic routing used in the ILECs' high capacity transmission rings.

Third, and most critically, transport routing is driven by overall ILEC network design decisions based on the overall requirements for the transport of both local and access traffic. It follows that the routing of access traffic is heavily influenced by ILEC network deployment for these facilities shared by local uses. Deployment decisions are not made to maximize the efficiency of serving only access customers, let alone common transport customers. This is not a criticism. WorldCom similarly designs its network to meet its overall traffic requirements, rather than the needs of a specific category of customers. But we would lose customers quickly if we tried to penalize particular customers for our network routing decisions by charging based on the routing distances among our facilities, rather than on an end-to-end basis.

For all these reasons, there is simply no basis to require tandem-switched transport customers -- but not dedicated transport customers -- to pay for transport based on the partitioned rate structure so beloved by the ILECs 39/ (although the Commission should retain the hubbed version of tandem-switched transport as an option for customers). Contrary to the ILECs' contention, the partitioned rate structure is no more cost-based than the unitary rate structure. It

39/ If, however, the Commission eliminates the unitary rate structure for tandem-switched transport, then it should also modify the rate structure for dedicated transport. To be consistent, all access customers would have to be priced based on the distance of the actual routing of the transmission path. Such a rate structure, while consistent, would hardly be rational for either dedicated or common transport.

simply would result in unreasonable discrimination between dedicated and common transport users. In the past WorldCom has primarily been concerned that AT&T would be the beneficiary of such discrimination. In the future that beneficiary could be the ILEC long distance operation.

3. Forward-looking costing methodologies would have to be used. The ILECs' call for setting the prices of tandem switching based on fully allocated, embedded costs is astounding. Not a single other access charge rate element is priced on that basis, nor have they been since 1991, when price cap regulation was initiated for most of the ILECs. The Commission has decided -- not just in the recent Local Competition Order, but in the orders establishing price cap regulation half a decade earlier -- that embedded cost pricing using a rate of return methodology does not advance the public interest. And such an approach could hardly be reconciled with the 1996 Act and the Local Competition Order's pricing methodology.

WorldCom has already demonstrated that, in response to the CompTel remand, ILECs' tandem switching rates should be re-initialized based on either a forward-looking cost study, or using the proxy prices adopted in the Local Competition Order. 40/ This correction should be relatively simple, thanks to the cost studies in use to develop interconnection rates for the identical functionality

40/ WorldCom Comments at 53-56.

provided as an unbundled network element. At the same time, WorldCom has not asked the Commission to re-open the (highly important) question of transport transmission rate levels at this time. We hope that competitive pressure can cure discrimination and excessive pricing in both common and dedicated transport rates over time. 41/

The ILECs make various allegations regarding the "costs" of common transport transmission recovered through the TIC. But if they are serious about re-setting tandem-switched transport rates based on cost, then this cannot be accomplished by simply shifting revenues from the TIC to the tandem-switched transport rate. Instead, a forward-looking cost study would be required to re-initialize the rates for both common and dedicated transport. Again, WorldCom does not relish this "mother of all rate cases." Except for the tandem switching charge, where adjustment is required by the court, we would prefer to leave as a given the Commission's transport rate structure and pricing decisions to date -- even those we disagree with -- and let local competition start driving rates toward more reasonable levels in the future. But such a massive cost study and rate case is inevitably implied by the prescriptive arguments the ILECs have made regarding tandem-switched transport "costs" recovered through the TIC.

41/ The ILECs, however, seek rate changes here that would permit them to raise rates even further for less competitive tandem-switched transport. Such a change would have a potentially devastating impact on interexchange competition, which is why this issue was so hotly debated in the past.

The Commission would have to apply to all access charges the same forward-looking costing principles that it has adopted for interconnection elements. First, the network configuration used should be forward-looking. Forward-looking costs do not vary based on the existing technologies that historically were installed in the ILEC network; they are determined based on the efficient technologies that the ILEC is installing currently and in the (short term) future. Moreover, access customers have no control over which technologies an ILEC uses to provide a given service.

Furthermore, forward-looking cost studies should presume that ILECs will deploy network facilities efficiently. For example, the actual fill factors on a given transmission facility are irrelevant to forward-looking cost studies. The fill factors that would represent efficient network deployment are far more relevant. 42/

Finally, forward-looking cost studies must examine, de novo, the relationships between the costs of high capacity and lower capacity dedicated transport facilities. WorldCom believes that, given the ring architecture of the modern, geodesic, shared interoffice transmission network, the costs per circuit do

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42/ Thus, even if the number of actual minutes traversing a given LEC's common transmission circuits is below 9000 minutes per month, the optimal number, using an ideal network design, may well be far higher. Sprint Comments at 27. Similarly, the actual number and location of access tandem switches, within the existing network topology of central offices, is irrelevant to a forward-looking cost study. What matters is the most efficient number and location of access tandem switches. WorldCom Comments at 52-53; Local Competition Order, ¶¶ 685, 690.

not vary (or vary only minimally) based on the transmission capacity reserved by the access customer. What is critical is this: if, contrary to WorldCom's preferences, cost studies are undertaken to re-initialize transport rates, then those studies must not assume, contrary to reality, that either DS1 or DS3 service is provided using a hypothetical and inefficient "stand alone" circuit directly from the SWC to the end office. Rather, those studies should examine the costs based on efficient, forward-looking networks -- which coincide with the ILECs' actual ring-based interoffice networks. 43/

4. There is no justification for loading different amounts of overheads or common costs on different transport services. The CompTel court reversed and remanded the Transport decision regarding tandem switching in large part because it could discern no rational basis for the different allocation of overhead loadings to different transport services. No such rational basis exists. 44/ Whether the cost

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43/ Similarly, we do not object to cost-based rate elements for SONET-based services based on dedicated transport capacities higher than DS3. But critically, users of lower capacity transport should share the efficiencies, given that the services they purchase are provided over the same SONET-based networks. And before an ILEC makes the requisite competitive showing, the Commission must not relax its existing requirement, adopted in the context of switched transport expanded interconnection, that a specified threshold amount of collocation must be in use before an ILEC may offer discounted offerings for capacity volumes greater than DS3, and that such discounted offerings must be cost-justified. CITE.

44/ A differential based on the greater degree of competition for high capacity dedicated transport certainly would not satisfy a standard of reasoned decisionmaking. Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, CC Docket No. 94-97, Phase I, 10 FCC Rcd 6375 (1995) (inter

[Footnote continued]

studies utilize the price cap new services test methodology (which establishes rates based on forward looking "direct costs" plus "a reasonable share of overhead loadings") or a TSLRIC or TELRIC methodology (which establishes rates based on forward looking "long run incremental costs" plus "a reasonable share of joint and common costs") 45/ -- and we believe that the difference between these forward-looking methodologies, done correctly, may be somewhat less than meets the eye -- it is critical that an identical proportion of "overhead loadings" or "joint and common costs" be added to the direct cost base for all transport services. In light of the CompTel remand, the Commission simply has no other option.

5. Rates for usage-sensitive elements would have to take into account peak usage. The Commission has correctly concluded that the costs of shared facilities vary primarily based on usage during peak periods, rather than total usage. 46/ With most network facilities, it is difficult to measure peak period usage, since peaks occur at different times in different parts of the network, and frequently

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[Footnote continued]

alia, rejecting ILECs' argument that market conditions justified differential overhead loadings). The point of cost-based ratemaking is to protect consumers and to prevent discrimination. A "market-based" rationale for differential loadings of overheads or common cost would basically be equivalent to pricing based on the ILECs' market power, rather than based on costs.

45/ Compare 47 C.F.R. § 61.49(g), (h), and (i) with 47 C.F.R. §§ 51.503, 51.505, and 51.511.

46/ Local Competition Order, ¶ 755.

shift. But with tandem-switched transport, this problem is less difficult: peak demands are imposed by IXCs that depend primarily on dedicated transport, but that use tandem-switched transport for overflow during peak periods. This overflow usage practically defines the peaks for tandem-switched transport usage. To be cost-based, a much higher proportion of the costs of both tandem switching and common transport facilities would have to be recovered from overflow charges, rather than from the charges imposed on regular "base load" users of tandem-switched transport.

6. Rates based on forward-looking costs will not be revenue neutral to the ILECs, and should not provide for ILEC recovery of residual costs. We will not reiterate our arguments on this central point here. But the point is just as applicable in the specific context of a cost-based re-initialization of transport rates as it is more generally.

In conclusion, WorldCom reiterates its position that the Commission need not re-open any of the non-remanded issues decided in the Transport proceeding. But if the Commission accedes to the ILECs' calls to do so, then it must decide those issues in a rational manner, consistent with its recent decisions regarding how rates should be derived based on forward-looking costs, as described above.

D. ILECs Should Not Be Allowed to Double Recover Their Shared SS7 Costs While Reaping the Benefits of Free IXC SS7 Services.

[Notice, Section III.F.]

In WorldCom's initial comments, we argued that the ILECs should not be permitted to charge interconnecting IXCs for the use of their common channel signalling system 7 ("SS7") networks. 47/ Certain aspects of our proposal need to be clarified. First, we do not mean that there should be no charge for SS7-related facilities that are dedicated to the use of particular IXCs. WorldCom has no objection to reasonably cost-based rates for dedicated network access lines ("DNALs") provided to access customers in the context of SS7 networks -- for which ILECs are already charging IXCs. 48/ Rather, our argument goes to new charges to IXCs for the shared costs of SS7 networks. Second, WorldCom has no objection to cost-based rates for ILECs' offering of SS7 (both dedicated and shared components) as an unbundled network element. Carriers purchasing unbundled elements from the ILECs may well need to use the ILECs' SS7 networks to provide their own services, and should be able to purchase the use of such networks as an unbundled element. 49/

47/ WorldCom Comments at 56-59.

48/ 47 C.F.R. § 69.125.

49/ 47 C.F.R. §§ 51.319(e), 51.509(f).

Instead, WorldCom's contention is that when telecommunications carriers with their own separate network facilities, including SS7 networks, interconnect with one another, those carriers should not charge one another for the use of those SS7 networks, which have shared costs. The same principle should apply whether the carriers are two interconnected facilities-based LECs operating in the same service area, or an IXC interconnecting with a LEC.

The total shared costs of SS7 networks are relatively low. 50/ Moreover, the administrative and transaction costs of implementing a billing arrangement for the shared costs of SS7 are significant: several ILECs in this proceeding, in effect, conceded that the high costs of the measurement and billing facilities necessary to implement the SS7 rate structure adopted by Ameritech and proposed in the Notice would not be justified by the benefits of that rate structure. 51/ And the traffic flows between ILECs and almost all IXCs are roughly balanced (i.e., the amount of originating and terminating traffic is roughly equal). These are precisely the circumstances under which the Commission has found that a "bill-and-keep" arrangement -- "compensation 'in-kind' in the form of access to the other carrier's network" -- could advance the public interest. 52/

50/ See USTA Comments, Attachment 11 (total industry costs of SS7 included in TIC estimated at $58.7million).

51/ See, e.g., Bell Atlantic/NYNEX Comments at 40 and n. 95.

52/ See Local Competition Order, ¶¶ 1112-13, 1116; cf. 47 U.S.C. § 252(d)(2)(B)(i). In particular, there is no risk, in this context, that cost-free termination would distort carriers' incentives and encourage them to seek

[Footnote continued]

Moreover, a mandated "bill-and-keep" arrangement makes particular sense where, as here, each of the interconnected carriers is able to, and does, recover the relevant costs from its own end users. In particular, ILECs can, and do, recover the costs of their SS7 networks (and much, much more) from their end users through charges for SS7-based vertical services. In turn, IXCs have (somewhat more limited) opportunities to earn revenues from service offerings that use their SS7 networks. In these circumstances, neither ILECs nor IXCs should be allowed to impose charges on one another for the use of shared SS7 network facilities. Such charges would amount to double recovery.

E. WorldCom Would Not Object to A Pro-Competitive Restructure of the Price Cap Baskets and Service Categories.

[Notice, Section V.C.2]

Several of the ILECs propose major modifications to the existing structure of price cap baskets and service categories. In particular, several of them propose replacing the current four baskets and approximately two dozen service categories and subcategories with one or two baskets and a handful of service categories. 53/ WorldCom has long been concerned that the price cap system does

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[Footnote continued]

customers that primarily originate traffic. Local Competition Order, ¶ 1112. Termination in the context of ILEC-IXC interconnection would not be free; under WorldCom's proposal, only the SS7 component would be free of charge.

53/ See, e.g., USTA Comments at 50-55; Southwestern Bell Comments at 32-34.

not contain adequate controls on potential unreasonable discrimination by the ILECs. 54/ This remains a serious problem, particularly while local competition is still developing. That said, we would not object in principle to a simplification of the existing price cap structure, particularly some of the duplicative, nested baskets, service categories, and subcategories, once the requisite competitive showing is made.

The ILEC proposals, however, go way too far. The current price cap structure contains certain absolutely critical protections that must be retained. First, the division of trunking services (special access and transport) into separate DS3, DS1, voice grade, and tandem-switched service categories is the only protection left against the possibility of anti-competitive shifts of revenues between these services. The Commission found in the original LEC price cap order, and reconfirmed several times in the Transport proceeding, that separate price cap treatment was necessary "in order to prevent the LECs from offsetting lower rates for services subject to more competition with higher rates for less competitive

54/ In particular, the Commission must recognize that price caps cannot control the discrimination that would result from ILEC offerings with prices specific to individual customers, or inherent customer-specific pricing through volume discounts for which only one access customer can qualify. For a more detailed discussion of the limitations of price caps in the access context, see LDDS WorldCom's Comments in CC Docket No. 94-1, Price Cap Performance Review for Local Exchange Carriers (filed Dec. 11, 1995). See also Response to LDDS Communication, Inc. to January 18, 1995 USTA Ex Parte Filing in Docket No. 94-1 (filed Feb. 8, 1995).

services." 55/ For the same reasons, if the Commission adopts WorldCom's proposal to re-initialize terminating local switching usage rates based on forward-looking cost and to recover the remaining revenues through originating local switching usage rates, these two rates should be placed in separate service categories.

Second, significantly more competitive services, such as interexchange service and common carrier video dialtone-type offerings, must be regulated separately from access services that are part of the ILECs' basic local exchange monopoly. Including all these services in the same price cap basket, as proposed by USTA and others, would enable incumbent LECs to reduce prices for interexchange and video offerings -- possibly below cost (given the removal of service category) lower bands -- and offset this with higher rates for access services. This would result in the most anti-competitive of cross-subsidies. The regulation of ILECs' interexchange and video offerings must be kept separate from the price cap regulation of access services.

Third, simplification of the price cap system is a desirable regulatory change from the ILECs' point of view, and should be used as a "carrot" rather than squandered. As with other forms of pricing flexibility the Commission should defer any such changes until ILECs have demonstrated progress toward competition,

55/ Transport Rate Structure and Pricing, Third Memorandum Opinion & Order on Reconsideration, 10 FCC Rcd 3030, 3068, ¶ 76 (1994).

either based on the Phase I competitive checklist or the thresholds for Phase II (or an intermediate phase).

That said, at the appropriate point in time for each ILEC, WorldCom would not object to the creation of a single price cap basket for that ILEC's "network services," with the following nine separate service categories:

(1) flat rate charges to users or carriers (including the SLC, any flat rate charge to carriers recovering subscriber loop costs, and the charge for line-side local switch ports);

(2) originating local switching usage charges;

(3) terminating local switching usage charges;

(4) data base and information;

(5) tandem-switched transport (transmission and switching);

(6) voice grade special access and dedicated transport;

(7) DS1 special access and dedicated transport;

(8) DS3 and above special access and dedicated transport; and

(9) the TIC, pending elimination of that element.

The Commission should not increase the upper bands from the current levels to USTA's proposed 10 percent for most of these service categories, which would greatly expand the ILECs' ability to raise rate levels for particular service categories (offset by reductions in other categories), without a substantial showing that competition has advanced to the extent that such rate increases are unlikely. Nor should the existing zone density pricing subcategories be replaced with a broader form of geographic deaveraging without a fairly substantial competitive